United Nations A/HRC/35/29/Add.2

General Assembly

Distr.: General
24 May 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Kuwait*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Working Group on the issue of discrimination against women in law and in practice on its visit to Kuwait from 6 to 15 December 2016. In the report, the Working Group describes the situation regarding the human rights of women in the country and analyses achievements and challenges in that regard. It examines the legal, institutional and policy framework for promoting gender equality and the participation and empowerment of women in family, economic, social, political and public life, paying particular attention to women victims of multiple forms of discrimination. The Working Group also presents recommendations for further progress in eliminating discrimination and promoting equality.

* The report was submitted after the deadline in order to reflect the most recent developments.

GE.17-08435(E)

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** Circulated in the language of submission and Arabic only

I. Introduction

A. Visit

1. The Working Group on the issue of discrimination against women in law and in practice visited Kuwait from 6 to 15 December 2016 at the invitation of the Government. The experts met with various concerned stakeholders in Kuwait City and Jahra. The experts wish to thank the authorities for their remarkable level of cooperation and support in the organization of the visit. They also thank all their interlocutors, public officials, health professionals, representatives of civil society and academia, the United Nations country team and representatives of the private sector for all the fruitful exchanges held during the mission.

2. In the capital, the experts met with the Minister of Social Affairs and Labour, the Deputy Minister for Foreign Affairs and representatives of the ministries responsible for justice, the interior, social affairs, health, education, higher education, young people, finance, commerce and industry, awqaf and Islamic affairs, and information, the General Secretariat of the Supreme Council for Planning and Development, the public authorities responsible for manpower, for housing and for persons with disabilities, the Central Agency for Remedying Illegal Residents' Status, the Social Development Office, the Women's Affairs Committee, the National Council for Culture, Arts and Letters and the Central Statistical Bureau. The experts also met with the president of the Constitutional Court, the General Prosecutor and some of the first women prosecutors appointed, the Director of the Institute for Judicial and Legal Studies, the Director of the Institute for Scientific Research, the Supreme Consultative Authority for the Implementation of Sharia Law, representatives of the Chamber of Commerce and parliament staff. In Jahra, the experts met with the Governor and other local authorities.

3. The experts visited a shelter for women domestic workers, the women's prison, a polyclinic, a hospital and public schools, both in the capital and in Jahra.

B. Context

4. Kuwait has a distinctive position in the Gulf, with its humanitarian leadership and tradition of a vibrant political culture, as a constitutional monarchy with the oldest parliament in the region. There are no formal political parties in Kuwait and politics are exercised through long-standing ideological movements that correspond with distinct sociocultural communities coexisting alongside each other.

5. Kuwait is the second richest country in the Gulf and has a high position on the human development index (48th out of 188 countries).[1] The population of about 4 million people is comprised of 1.2 million nationals and 2.8 million non-nationals;[2] this constitutes one of the key defining characteristics of the country. With about 60 per cent of the population considered as young people,[3] Kuwait faces additional challenges arising from intergenerational differences in terms of approaches and aspirations.

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[1] United Nations Development Programme, *Human Development Report. Work for Human Development* (2015).

[2] National Centre for Health Information, Annual Health Report 2014.

[3] See https://www.youth.gov.kw/UNP/about/s_UN.aspx.

6. The visit took place at a post-electoral moment, amid calls for reform. During the past decades, the parliament had been dissolved multiple times owing to unresolvable differences with the Government and allegations of corruption. Some of the concerns raised related to the sustainability of the country's fiscal policy, which may jeopardize the State's budget.

7. The experts appreciate the demands made to further advance and deepen reforms in economic, social and political life in order to sustain the country's development and democracy in a fragile regional context. The State has made substantial progress in the legal and policy framework in the past decades, as regards promoting women's rights in the public and economic spheres, while grave gaps remain in terms of gender equality, particular in the family and in the context of gender-based violence, as demonstrated by the country's low ranking on the Global Gender Gap Index, which dropped to 128th of 144 countries in 2016, down from 117th of 145 countries in 2015.[4]

8. The elimination of discrimination against women in all fields of life is integral to such progress, including in relation to the country's care economy, which functions predominantly thanks to women migrant workers, in public services and in the home, but also in relation to women's status within the family and their meaningful participation in political and public life. Indeed, universal standards require States to guarantee access to equal opportunities for all women, including non-nationals, in all fields of human activity and to modify social and cultural patterns of conduct of men and women that are based on the idea of the superiority of men or on stereotypical roles of women or men.

II. Legal, institutional and policy framework for women's equality and human rights

A. Legal framework

1. Ratification of international instruments and cooperation with human rights mechanisms

9. Kuwait has ratified seven of the core human rights instruments[5] and has demonstrated a strong commitment to cooperate with United Nations human rights mechanisms, as shown by its engagement with treaty bodies, the universal periodic review, the Special Rapporteur on trafficking in persons, especially women and children, who recently conducted the first mission of a special procedure mandate holder to the country since 1996,[6] and the Working Group.

10. Kuwait acceded to the Convention on the Elimination of All Forms of Discrimination against Women in 1994. It made reservations to article 9 (2) (citizenship

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[4] World Economic Forum, *The Global Gender Gap Report 2016* and *The Global Gender Gap Report 2015*.

[5] Kuwait has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

[6] A/HRC/35/37/Add.1

rights) and to article 16 (1)(f) (gender equality in marriage and the family), the latter on the grounds that the provision was incompatible with sharia. The experts share the opinion expressed by the Committee on the Elimination of Discrimination against Women that reservations to article 16 are incompatible with the object and purpose of the Convention, and reiterate the importance of States' withdrawing their reservations so as to ensure gender equality. It is the responsibility of States to respect their international commitments and the choices they have made regarding the primacy of international legal standards.[7] The experts highlight the good practice of some States that have withdrawn their reservations to article 16, representing a vital step towards an effective legal framework to protect women's rights.[8]

11. The experts note positively the lifting in 2005 of the State's reservation to article 7 of the Convention, related to women's political participation, but regrets the persistence of the other reservations and the absence of any plans to ratify the Optional Protocol to the Convention.

2. Main achievements in promoting women's rights and gender equality

12. The experts commend the efforts made by Kuwait to strengthen its legal framework for the promotion and protection of women's human rights, by which it has demonstrated its leadership in the region in this regard.

Constitution

13. The Constitution provides a solid foundation for combating discrimination against women: the principle of equality is enshrined in its article 29, which stipulates that all people are equal in human dignity and in public rights and duties before the law, without distinction to sex, origin, language or religion.

Act on electoral rights

14. Act No. 17 of 2005 marked the beginning of a series of legislative measures and judicial decisions repealing discriminatory legal provisions. The Act, which amended Act No. 35 of 1962 (Electoral Act), granted Kuwaiti women full and equal rights with men to vote and stand for election. The experts regret, however, that those rights are not unqualified, given a clause in the Act that stipulated that women's political participation should abide by Islamic laws, while there is no such specification for men.

Employment rights

15. Act No. 6 of 2010, on labour in the private sector, provides a set of legal safeguards, including the principle of equal pay (art. 26), the employer's obligation to provide security and transport for female employees on night shift (art. 22), paid maternity leave of 70 days and the possibility of four months of additional unpaid leave, and protection against pregnancy-related dismissal (art. 24), the employer's obligation to grant working women breastfeeding hours and to provide childcare facilities (for companies with over 200 employees or that employ more than 50 women) (art. 25), and the setting of minimum wages for all, which are subject to review every five years (art. 63) (see also para. 27 below).

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[7] A/HRC/29/40

[8] Ibid.

Housing

16. Prior to the enactment of Law No. 2 of 2011, only men were entitled to receive State housing loans. Under that law, widows, divorced women, women married to non-Kuwaiti men and unmarried women over 40 years old are now eligible for such loans to buy their own property. This positive development has opened opportunities for these otherwise excluded women (see also para. 30 below).

Law on domestic workers[9]

17. Law No. 68 of 2015 conferred labour rights on domestic workers. The law — the first of its kind in the region — grants domestic workers, inter alia, the right to a weekly day off, 30 days of annual paid leave, a 12-hour working day with rest and an end-of-service benefit of one month per year at the end of the contract. Furthermore, domestic workers cannot be charged by recruitment agencies for recruitment expenses, travel costs or any associated fees and should be guaranteed judicial redress in cases of unpaid wages. The experts welcome the adoption of the law, which marked considerable progress in terms of legal protections for domestic workers (see also para. 29 below).

Decisions of the Constitutional Court and administrative courts

18. The experts greatly appreciate the role of the Constitutional Court as the defender of the constitutional guarantee of equality through judicial decisions. For instance, Kuwaiti women today can enjoy relatively uninhibited freedom of movement and may travel abroad without a male relative, following a 2009 Constitutional Court ruling against the requirement contained in the passport law of 1962 that a husband must agree to his wife's request for a passport.[10]

19. In 2009 two newly elected women parliamentarians appeared in the National Assembly without the hijab. Some members of parliament challenged this, citing the provision relating to sharia law that was passed along with the Electoral Act. The Constitutional Court held that the women did not have to wear the hijab, as the provision was not specific and could therefore be interpreted in different ways.

20. In 2012, an administrative court ordered Kuwait University to cancel a policy requiring female students to achieve better results in exams than male students in order to enroll in certain departments, such as medicine and architecture.[11]

21. The experts welcome this significant progress, but note that major gaps remain in the legal framework, in particular with regard to gender equality in the family and violence against women.

3. Challenges

22. Family law in Kuwait was codified in Law No. 51 of 1984 (Personal Status Law) and enacted in conformity with sharia law. Some legal provisions in the Personal Status Law do not comply with international human rights standards. Moreover, Kuwaiti women do not enjoy equal legal protection, as the legal frameworks applied for women from the Sunni majority are not the same as those applied for Shia women. Provisions of the law

[9] See also A/HRC/35/37/Add.1.

[10] World Bank, *Opening Doors* (2013).

[11] See https://www.hrw.org/news/2015/01/11/kuwait-upr-submission-2014.

differ slightly for these two branches of Islam, particularly in the areas of marriage, child custody and inheritance.[12]

Marital status

23. In accordance with the Personal Status Law, a woman's male guardian must give consent for her to be married, while the same is not required for a man (art. 8), only men may serve as witnesses to a marriage (art. 11), a Muslim woman may not marry a non-Muslim man (art. 18), polygamy is permitted between a man and up to four women, with no provision requiring the permission or even the knowledge of his first wife/wives (art. 21), the minimum age of marriage for a girl is 15 and for a boy it is 17 (art. 26), divorce is defined as the annulment of a marriage at the will of the husband or his representative (art. 97), a woman may demand separation on the grounds of harm (art. 126) but harm in a marriage is proven through the testimony of two men, or one man and two women (art. 133), there is no provision permitting a woman to file for divorce on the grounds that her husband has married another wife.

Child custody

24. Guardianship of children is generally granted to the father (art. 209). After a divorce, a woman who remarries loses custody of any children (art. 191 of the Personal Status Law). A non-Muslim woman can have custody of her child only until the child reaches the age of 7 (art. 192). A woman's custody of a son is terminated once the child enters puberty; custody of a daughter is terminated with the daughter's marriage and the consummation of that marriage (art. 194).

Inheritance

25. In accordance with the Personal Status Law, a husband is entitled to a one-half share of the inheritance of a deceased person if there is no son or grandson, and a one-quarter share if there is a son or grandson. A wife is entitled to a one-quarter share if there is no son or grandson, and a one-eighth share if there is a son or a grandson (art. 299). In cases of family inheritance, a male receives twice a female's share (art. 327).

Social and economic rights

26. The Personal Status Law legitimizes male dominance over women. Article 89, for instance, specifies that a husband should not forbid his wife from working outside the home unless the work negatively affects "family interests", which can be interpreted in a manner detrimental to women's autonomy.

Employment

27. Labour Act No. 6 of 2010 contains discriminatory provisions, such as one limiting women's work at night (art. 22), and references to morality and femininity (art. 23). Some protectionist provisions, such as the one regarding women's night work, might need to be monitored and evaluated in terms of their impact on the willingness of employers to hire women, in view of the extra burden placed upon the employer. The law does not provide for equal pay for work of equal value, as required by international standards.

[12] See also "Women's rights in the Kuwaiti Personal Status Law and Bahraini Shari'a judicial rulings" (2009).

Sponsorship[13]

28. The Aliens Residence Law of 1959 and accompanying regulations that govern the sponsorship system in Kuwait require all migrants to have a local sponsor (*kafil*) who is also their employer. The regulations give sponsoring employers the power to prevent workers from legally changing employment, to cancel their residency visas at will, thus rendering them immigration law violators, and to report workers as illegal residents should they leave employment without the sponsor's consent, thus subjecting them to criminal penalties or deportation.[14] While it does not go far enough, Administrative Decree No. 842 of 2015represents a first positive step, allowing migrant workers to transfer their sponsorship (*kafalah*) to a new employer without their current employer's consent after three years of work, provided they give 90 days' notice to their current employers.

Domestic workers

29. The experts note that the domestic workers law does not meet the guarantees set out under the country's general labour law and international standards. Ministerial Decree No. 2302 of 2016 established a minimum wage for domestic workers of 60 dinars ($200), guaranteeing domestic workers the same minimum wage as other workers under the labour law. Nevertheless, the experts note with concern how low this minimum wage is in comparison with the cost of living and the generally high incomes in the country: the estimated yearly earned income is $40,000 for women and $75,000 for men.[15] The law took a step towards prohibiting the confiscation of passports by the employer, but allowing it if the migrant worker agrees.[16] However, there is an absence of penalties for employers who confiscate workers' passports and a lack of effective monitoring and enforcement mechanisms, which are of critical importance for the effective implementation of the law.

Housing

30. Despite legislative progress in terms of granting women housing loans, the experts were informed that some women remained excluded from these benefits, namely, single women under 40 and married women. Furthermore, the experts learned that, in practice, the consent of a man in the family is still required for a woman to apply for the housing loan, although there is no such legal requirement. The experts underline the importance of the right to equality, which implies that each woman is to be treated as an individual in her own right, rather than as dependent on her husband or father.

Nationality

31. Under the Nationality Act of 1959 Kuwaiti women, unlike men, are not entitled to pass on their nationality to their children, except in cases of divorce from, the death of or statelessness of the father of the children, and even in such instances the decision to grant nationality to the child is not automatic. Kuwaiti women cannot pass their nationality to a foreign spouse. While the experts do not intend to interfere with the prerogative of the State to regulate nationality matters, they insist that Kuwaiti women should be able to pass on their nationality to their children and foreign spouses on an equal footing with Kuwaiti men. The Nationality Act, drafted prior to the enactment of the Constitution in which full equality between men and women is ensured, should be amended to recognize the right of

[13] See also A/HRC/35/37/Add.1.
[14] Human Rights Watch, *Walls at Every Turn* (2010), p. 32.
[15] World Economic Forum, *The Global Gender Gap Report 2016*.
[16] Ministerial Decree No. 166 of 2007.

Kuwaiti women to confer nationality on spouses and children on par with the right enjoyed by Kuwaiti men and ensure that women have equality before the law.

Gender-based violence

32. The experts note the stark gap in the legal framework with regard to violence against women. Kuwait has general provisions regarding acts of violence but no specific provisions aimed at combating gender-based violence.[17] Domestic violence, including marital rape and sexual harassment, do not constitute specific crimes in the Penal Code. In order to properly address gender-based violence, which is currently invisible under the legal framework, a comprehensive law on protecting women against all forms of violence would be necessary, including provisions on prevention measures, protection of and assistance for all victims of violence and due criminalization of perpetrators. The experts learned that the 2015 draft bill on domestic violence had been rejected, but are encouraged by the commitment of the Social Development Office and the Ministry of Health to support the presentation of a comprehensive bill in this regard to the new parliament.

33. The experts are concerned at the mitigating circumstances and exculpatory provisions set out in article 153 of the Penal Code regarding "honour" crimes when they are voluntarily carried out by a man against his wife or another female relative who has committed adultery.

34. The experts regret that article 182 of the Penal Code permits an abductor to escape punishment if he legally marries the girl abducted, provided that the marriage is approved by her guardian.

Sexual orientation and gender identity

35. Further to the amendment of article 198 of the Penal Code in 2007, the law now provides that anyone "imitating the opposite sex in any way" is subject to one year in prison and a fine of KD1,000. This amendment leaves transgender women in Kuwait vulnerable to discrimination on the basis of their sexual orientation and gender identity.

Adultery

36. Under the Penal Code, extramarital relationships (arts. 189-190 and 193-194) and adultery (arts. 195-196) are criminal offences punishable by prison sentences of 3 to 15 years. The view of the experts, as expressed in a public statement,[18] is that maintaining adultery as a criminal offence violates women's human rights, as do other laws criminalizing sexual behaviour. International human rights jurisprudence has established that criminalization of sexual relations between consenting adults is a violation of their right to privacy and an infringement of article 17 of the International Covenant on Civil and Political Rights, to which Kuwait is party. States parties to the Covenant are obliged to ensure that domestic norms take account of developments in international standards.

Rights to reproductive and sexual health

37. Kuwaiti legislation is restrictive as regards abortion. Abortion is criminalized and carries penalties of 3 to 15 years of imprisonment, and the termination of a pregnancy is

[17] Penal Code, arts. 160-163. Under article 186 of the Code, the punishment for rape is execution or life incarceration.

[18] See http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12672&LangID=E.

permitted under one sole circumstance: to preserve the life of the mother.[19] In accordance with international human rights standards, States should review national legislation with a view to decriminalizing abortion and to ensuring a woman's right to termination of pregnancy, at least where there is a threat to her life or health, where the pregnancy is the result of rape or incest or where the foetus suffers from a fatal impairment (see also para. 85 below).

Death penalty

38. The experts regret the end in 2013 of a de facto moratorium that had been in place since 2007 and the persistence of the execution of the death penalty by hanging. Authorities had indicated to the experts that the State refrained from implementing the death penalty for women. However, on 25 January 2017, a Kuwaiti woman and two migrant women were executed.[20] The experts are appalled by these executions, and, in line with the position of the international human rights community, strongly oppose capital punishment.[21] Since 1964, Kuwait has carried out 80 executions, 6 of which were of women.[22]

Legislative deadlock

39. The experts are concerned at the lack of progress in repealing discriminatory provisions against women, such as those contained in the Personal Status Law, the Nationality Act and the Penal Code, and at the position of many officials met who consider that the family law cannot be revised since it is derived from sharia. The experts would like to emphasize that some countries also having Islam as the official State religion have undertaken to review their family laws, taking a step towards further compliance with international standards of gender equality.[23] These reforms, based on interpretations of religious texts that favour equality, were founded on progressive interpretations of sharia.

40. The Working Group considers that culture is not a static or unchanging concept, although some States tend to present it as such in order to justify inequality between men and women.[24] Viewing culture and beliefs as immutable hinders the realization and development of all human rights, including those of women. Ample evidence exists on the crucial role of constructive public debate regarding the discrepancies between long-held norms and women's lived realities in today's world, involving a wide spectrum of views in society.

B. Access to justice

41. The experts were pleased to learn that the Institute for Judicial and Legal Studies provides judges and prosecutors with training on the Convention on the Elimination of All Forms of Discrimination against Women and other conventions. Although the experts were not able to assess the content of the training and the specific impact it has on court decisions, they consider this a positive practice and hope that all judicial and legal actors will be duly trained so as to narrow the gaps between national laws, their interpretation and implementation and international human rights standards. The experts also hope that

[19] Penal Code, arts. 174-177.
[20] See https://www.hrw.org/news/2017/01/26/kuwait-first-executions-4-years.
[21] See www.ohchr.org/EN/Issues/DeathPenalty/Pages/DPIndex.aspx.
[22] See www.capitalpunishmentuk.org/kuwait.html.
[23] A/HRC/29/40, A/HRC/20/28/Add.1 and A/HRC/23/50/Add.2.
[24] A/HRC/29/40.

the recent appointment of the first women prosecutors will lead to improved access to justice for women and a more gender-sensitive justice system (see para. 66 below).

42. The establishment of family courts in 2013 to better address family matters and shorten the periods of litigation in personal status cases is to be commended. . Furthermore, while the criminal procedure code provides all residents, regardless of their sex or nationality, with equal access to courts, the Personal Status Law stipulates that a woman's testimony is worth half of a man's. Fortunately, according to some judicial authorities, this principle is not implemented, but the law should still be modified. The experts also learned that anyone is entitled to free legal assistance and interpretation, which is an important component of the right to access justice. However, no information as to the quality of this assistance was received. The experts are concerned in particular by the accessibility and quality of legal aid provided to migrant women, not only as victims of abuses but also when accused of perpetrating crimes. Of the six women sentenced to death and executed in the country to date, five were migrant women.[25]

43. During the visit, the experts were informed that, since 2014, anyone could resort to the Constitutional Court to file a discrimination complaint, even non-Kuwaitis. This is an important step in the development of the right to access to justice. However, the experts observed that many women were unaware of their legal rights or what constituted discrimination against them, which contributed to their reluctance to stand up for those rights and possibly make use of the constitutional recourse. Furthermore, the experts were informed that filing a complaint to the constitutional court cost KD5,000 (over $15,000), which prevents equal access. Nonetheless, judging from the achievements to date by the Constitutional Court, the experts are confident that continued progress is possible.

C. Institutional framework and policies

1. Institutional framework

44. The Ministry of Social Affairs and Labour, the General Secretariat of the Supreme Council for Planning and Development, the public authority for persons with disabilities and the Social Development Office play a central role in the social security network as entities responsible for implementing the State's general policy in delivering comprehensive social care. The Government has established women's affairs offices in several ministries, including the Ministry of Social Affairs and Labour, the Ministry of Health and the Ministry of Justice, to promote women's rights. The experts are particularly encouraged by the Ministry of Youth as a potential driving force for women's empowerment.

45. The experts welcome the adoption of Act No. 67 in 2015 providing for the establishment of a national human rights institution (Diwan Huquq al-Insan). The experts regret, however, that a proposal to include a committee on women's rights was rejected, on the alleged basis that women's issues are too narrow. This shows a notable lack of understanding, since discrimination against women concerns more than half of the population. The experts hope that the institution will be established in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), particularly regarding its capacity for independent monitoring and reporting,[26] including with regard to all forms of discrimination against

[25] See www.capitalpunishmentuk.org/kuwait.html.

[26] See also CAT/C/KWT/CO/2, para. 27.

women. This would represent an important achievement in consolidating the national institutional framework for the protection of human rights and would demonstrate the State's willingness to take women's rights seriously.

46. The experts remain concerned at the absence of a central authority leading the national machinery on women's empowerment. The executive branch of the Government has set up an interministerial women's committee, affiliated with the Cabinet, that is intended to coordinate, inter alia, all initiatives relating to women's issues, advocacy, awareness-raising and training and to revise relevant laws before they are presented to the National Assembly. While the committee provides expert input upon the request of the ministries, it does not initiate policy discussions or speak with a collective voice on critical issues faced by all women in the country. The experts find that this entity does not meet the standards set out by the Committee on the Elimination of Discrimination against Women on a full-fledged national machinery for women, including the fact that they should be established at a high level of government.

2. Policies

47. In its development plan for the period 2015/16-2019/20, Kuwait established objectives and policies for the empowerment of women. The plan provides for, inter alia, the enhancement of the capacities of Kuwaiti women through the review and updating of legislation in order to eliminate discrimination against women, in a manner consistent with sharia; support for programmes to develop the socioeconomic capacities of women; and the establishment of an institutional mechanism to protect women from violence in the community and the family. The experts also acknowledge the efforts made to give more visibility to the issue of women's rights with the establishment in 2016 of Kuwaiti Women's Day on 16 May, commemorating the day when Kuwaiti women attained their political rights.

48. The State provides numerous social allowances for citizens who require particular assistance, such as women, persons with disabilities, the elderly and children. During the visit, the experts observed that the State supplements family incomes for public sector employees with generous subsidies, but that the benefits are generally paid to men unless a woman is head of household (divorced, widowed, or married to non-Kuwaitis); women are excluded from the benefits even when only the wife works as a civil servant.[27] Officials justified this by the fact that men are considered head of households and only men are expected to provide for the family's financial necessities.

49. In accordance with Ministerial Decision No. 190 of 2011, a joint working committee was formed by the Ministry of Social Affairs and Labour and the interministerial women's committee to implement a plan to create a legislative environment conducive to the social empowerment of women by ensuring that Kuwaiti legislation relating to the protection of women is devoid of any form of discrimination. A similar committee is needed to review all existing discriminatory laws and advance compliance with the State's international human rights obligations. The experts also learned that a draft policy on family is currently under consideration and emphasizes the importance of incorporating into that policy progressive elements in favour of women's rights and gender equality.

[27] World Bank, *Opening Doors*.

III. Participation of women in family and cultural life, political and public life and economic and social life, and access to health

50. Considerable progress has been made in eliminating discriminatory legal barriers to women's participation in the economic and public spheres in the past two decades. Regrettably, these advancements have not been followed in family life. Such persistent discrimination significantly hampers women's realization of full equality in all spheres of life.

A. Family and cultural life

51. Persistent discriminatory legal provisions affecting family life stand on the presumption of women's dependence on men, affecting women's equality in marriage, divorce, child custody and inheritance (see paras. 22-25 above).

52. The experts did not obtain any official data regarding the prevalence of child marriage. According to some reports, 5 per cent of registered marriages are early marriages.[28] According to other statistics, between 2008 and 2011, 51 to 261 girls under the age of 15 and 2,662 to 3,051 adolescents between the ages of 15 and 19 were married each year, with the latter accounting for 14.5 to 21 per cent of the total number of marriages.[29] According to official data, in 2015, there were no recorded cases of girls married under the age of 15. Arranged marriages between families are reportedly still the norm.

53. According to some stakeholders, the number of polygamous marriages is limited and seems to be on the decline among younger generations, but no official data in this regard was obtained during the visit. As extensively developed in a Working Group report[30] and as stated in joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, polygamy is contrary to the dignity of women and girls and infringes on their human rights and freedoms, including equality and protection within the family. Studies show that for the wives, polygamy causes damage to their physical and mental health, social welfare and property and results in deprivation; and, for the children, it causes emotional and property damage, often with serious consequences for their well-being. The States parties to the Convention on the Elimination of All Forms of Discrimination against Women have specific obligations to discourage and prohibit polygamy because it is contrary to the Convention.

54. The experts were concerned to hear repeatedly from some officials during the visit that there is no discrimination against women in Kuwait, since the cultural construction of gender is conducive to generalized discrimination against women in all cultures, in any country. The experts note the vital importance of article 5 of Convention on the Elimination of All Forms of Discrimination against Women, which requires States to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices that are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles

[28] See http://reports.weforum.org/global-gender-gap-report-2015/economies/#economy=KWT.

[29] "The Human Line Organization, Social Workers Society and Musawah Group's parallel report to the State of Kuwait's report submitted to the Human Rights Committee" (2015).

[30] A/HRC/29/40.

for men and women. This provision establishes a legal basis for the primacy of women's right to equality over discriminatory cultural patterns of conduct, including those stemming from religious edicts.[51]

55. The experts received information about a mechanism in place, under the coordination of the Ministry of Information, to review content in media outlets related to the image of women. While they were not able to evaluate the operations of the mechanism or its impact, the experts emphasize that the measure of success lies in ensuring that gender-based stereotypes present in the media, on the Internet and in audiovisual productions do not contribute to the perpetuation of a culture of discrimination but to a constructive debate on sensitive issues, such as all forms of violence against women and women's right to equality in the family, while also duly ensuring freedom of expression.

56. The experts were also informed about the initiatives undertaken by the Ministry of Awqaf and Islamic Affairs in raising public awareness of issues affecting women's rights. The Ministry's initiative to dedicate several Friday prayer sermons to such issues is an important first step which would benefit from an expanded engagement with progressive Muslim scholars within the country and from around the Muslim world.

1. Nationality

57. In line with the views of several treaty bodies and other stakeholders, the experts are concerned with the situation of Kuwaiti women who are married to non-Kuwaitis (see para. 31 above). According to some data, 20,417 marriage certificates were issued between 1982 and 2013 for national women married to non-nationals.[52] The experts have already expressed concerns regarding the Nationality Act through communications sent to the State in 2014 and 2015.[53] This de jure inequality has considerable effects on women and their children because the State protection granted by citizenship is refused to them de facto. The experts regret the use of nationalist arguments as the exclusive means to address the discrimination faced by these women, as it closes down the space for dialogue.

2. Migrants

58. Interpretations and applications of the State's legal system have a detrimental impact on women's equal protection under the law, equal access to public services and women's capacity to build assets and participate in all aspects of national development. Despite the existence of impressive high-performing professional women in Kuwait, the experts note that the predominant view is that the role of women should be primarily devoted to the domestic sphere, taking care of children, a concept perpetuated even in core curricula in public schools (see para. 73 below). The experts insist that women should be treated equally in the family with regard to the division of rights and responsibilities.

59. The State's constitutional guarantee of full equality between men and women and its openness to multiple sources of legislation and comparative legal approaches provide a strong foundation for furthering public dialogue on this matter. An express road map that would help open doors for reforms in the area of family law is imperative.

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[51] Ibid.

[52] Alanoud al-Sharekh, "The status of national women married to non-nationals in Gulf Cooperation Council countries" (2015).

[53] See www.ohchr.org/EN/Issues/Women/WG/Women Pages/Communications MiddleEast.aspx.

II. Political and public life

60. Women have historically been active players in the public life of the country, particularly in the period of conflict. It was only in 2005, after decades of persistent struggles and repeated rejection, that Kuwaiti women gained their electoral rights.[14] This represented a crucial step in their quest for equality.

61. Nonetheless, more than a decade later, the number of women in the parliament has been minimal and decreasing. In the national elections in 2009, the first in which women were elected to the parliament, women won four seats in a strongly contested vote. The most recent national elections, held on 26 November 2016, resulted in one woman among the 50 parliamentarians elected, which places Kuwait at the bottom of the world ranking (118th of 190 countries),[15] in comparison with an 18.9 per cent average for other Arab States.[16] The proportion of women candidates also decreased, from 11.1 per cent in 2006 to 2.5 per cent in 2013. There were 15 women candidates among the 287 candidates in the 2016 elections (about 5 per cent), which represents a slight improvement from the 2013 elections. The experts also regretted to learn that no women were represented at the municipal level.

62. Women in Kuwait continue to face serious obstacles in exercising their political rights as a result of a multitude of cultural, institutional and structural barriers and exclusion from the existing male-dominated political movements and networks. The fact that there are no formal political parties, but rather ideological movements, also makes meaningful advancement of women's political representation more difficult.[17]

63. Under the Convention on the Elimination of All Forms of Discrimination against Women, the State has the obligation to remove all barriers to women's equal participation, including by establishing a quota system or taking other special measures for women's political representation at all levels and branches of government.[18] The experts were informed that there had been no systematic and sustained measure to meaningfully support women's political participation and that the concept of temporary special measures was not well understood and did not enjoy support in the country.

64. The experts note that many countries in the world, including high-income countries, have adopted some form of temporary special measures in order to compensate for women's late start in national electoral processes. In the opinion of the Committee on the Elimination of Discrimination against Women, temporary special measures are part of a necessary strategy by States parties directed towards the achievement of substantive equality of women with men in the enjoyment of their human rights.[19] Some States have even enacted laws on parity, which are not temporary measures but permanent electoral reforms that have proven instrumental in achieving equality in women's political representation.

65. The present Government has only one woman among the 16 ministers. Previous Governments have not had more than two women in the Cabinet. Despite their active role

[14] See also www.bakerinstitute.org/media/files/files/8f42f67d/WRME-pub-PoliRep-Kuwait-092315.pdf.

[15] See www.ipu.org/wmn-e/classif.htm.

[16] See www.ipu.org/wmn-e/world.htm.

[17] See also http://reports.weforum.org/global-gender-gap-report-2016/economies/#economy=KWT.

[18] Committee on the Elimination of Discrimination against Women, general recommendation No. 25 (2004) on temporary special measures.

[19] Ibid.

in society over decades, women still experience slow career advancement in the public service and face barriers in reaching senior leadership positions. In some sectors, such as health, women have been able to make important breakthroughs: women occupy most of the director positions in the Ministry of Health, but only 1 of the 12 under-secretaries is a woman. The overwhelming majority of the country's 100 polyclinics are headed by women and half of the heads of hospitals are women.

66. The experts were also pleased to learn that the president of the University of Kuwait, a public institution, is a woman. Furthermore, a groundbreaking pilot project brought 22 women in as prosecutors in November 2014,[40] paving the way for women to become judges after their required services as prosecutors for six years. This positive experience over a period of two years should encourage the authorities to continue the initiative, without interruption, and keep the door open for future generations.

67. Women are an integral part of the country's police force,[41] working in various sectors. Today there are some 358 women in the police, the spokesperson of the Ministry of the Interior is a woman and 49 per cent of the staff in the investigation department are women.

68. The diplomatic service has remained relatively closed to women's entry and advancement until recently. Of 84 ambassadors, only 2 are women.[42] Until a 2014 policy reform within the Ministry of Foreign Affairs, women who had gone through the same diplomatic training could only be "political researchers". Women now have the possibility to be appointed as diplomats following success in an entry exam, which all applicants must undertake. The experts were pleased to learn that in 2014, of the five candidates accepted, two were women.

69. Women have also been very active in Kuweiti civil society, including in demanding their political rights since the 1970s. However, their ability to form a coordinated movement seems limited by various factors. According to several reports, freedom of assembly is restricted in Kuwait and non-governmental organizations (NGOs) are controlled by the State.[43] This poses additional challenges for women's rights activists who operate in an environment with a strong patriarchal culture. The experts hope that a bill currently being considered by the Ministry of Social Affairs and Labour would strengthen and promote the free and independent exercise of NGOs working for the promotion and protection of women's rights. The experts wish to emphasize the importance of a vibrant and independent civil society, which provides the checks and balances necessary for the healthy functioning of democracy in Kuwait.

70. The experts are encouraged by young women who are actively engaged in public and political life and who are developing their own ways of working, including by using innovative information and communications technology, in order to make their unique voices heard. The experts are concerned, however, at reports of repressive measures introduced against certain users of social media, including under the new telecommunications law,[44]

[40] Supreme Council of the Judiciary decision No 14 of 2013.

[41] See Decree No. 87 of 2009.

[42] One is ambassador to the Gulf Cooperation Council.

[43] Sanja Kelly and Julia Breslin, *Women's Rights in the Middle East and North Africa: Progress Amid Resistance* (2010); https://www.hrw.org/world-report/2017/country-chapters/kuwait; and https://www.alkarama.org/alkpages/annrep2016/kuwait2016_en.html.

[44] See https://www.hrw.org/world-report/2017/country-chapters/kuwait.

C. Economic and social life

71. In the past decades, solid progress has been made in terms of women's participation in economic and social life, backed by the momentum of legislative initiatives that have had an important impact on women's enjoyment of their rights (see paras. 12-21 above).

1. Education

72. The experts commend the State's major achievements in closing the gender gap in the field of education. Parity has been reached in enrolment rates for girls and boys in primary school (93 per cent). Enrolment rates are higher for girls in secondary schools (85 per cent, compared to 81 per cent for boys) and far superior for women in tertiary education (33 per cent, compared to 20 per cent for men).[45] The higher rates at the university level could be the result of a larger percentage of men studying abroad.[46] Also, continuous efforts undertaken by the Government have considerably reduced the illiteracy rate, down to 5 per cent for women (3 per cent for men).[47]

73. While recognizing the achievements in the education field, the experts are concerned that some current practices reinforce stereotypes for the places of women and men in society. Kuwait has a gender-segregated educational system in primary and secondary public schools.[48] During the visit, this segregation was justified on the basis of religious, cultural and social considerations. The experts could observe that some courses are held for girls only, such as cooking, sewing and household management. Educational curricula often portray the conservative image of women as housewives and mothers. All teachers in the primary education system are women. The experts are concerned that these practices perpetuate discriminatory stereotypes of women's role in society and that there is little awareness or recognition of their impact on the empowerment of women and gender equality in society. The experts were informed by authorities that human rights are taught in secondary school.[49]

74. The experts observed that institutions of education seemed to be the bastion of conservatism and promoted conflicting visions for women, namely, at the lower levels of schooling women are portrayed solely as wives and mothers, whereas at the higher levels they are encouraged to pursue diverse careers, including in male-dominated industries.

2. Employment

75. Access to education has empowered women, giving them the possibility to pursue diverse careers. Women can be found in most professions, as well as on the executive boards of some major banks and private companies. Women's labour participation also increased: the percentage of women who are economically active rose from 35 per cent in 1990 to 44 per cent in 2014,[50] while among men, the rates were 78 per cent (1990) and 83 per cent (2014).[51] Women's participation as a percentage of the total labour force increased slightly, from 26.8 per cent (1990) to 27.2 per cent (2014).[52] These statistics

[45] World Economic Forum, *The Global Gender Gap Report 2016*.
[46] Kuwait MENA Gender Equality Profile (2011).
[47] World Economic Forum, *The Global Gender Gap Report 2016*.
[48] Act No. 24 of 1996.
[49] Saud Helal Alharbi, *The State of Kuwait Experience in the Field of Human Rights Education* (2010).
[50] See http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS.
[51] See http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS.
[52] See http://data.worldbank.org/indicator/SL.TLF.TOTL.FE.ZS.

contrast with government data according to which women represented 55.7 per cent of the total national labour force. While the unemployment rate is generally low, in 2015 the rate among women was 5.5 per cent as compared to 4.2 per cent for men.[51] According to statistics received from the authorities, the wage gap currently stands at 38 per cent in the private sector and 28 per cent in the public sector.[52]

76. Successful working women are increasingly well regarded by most sectors of society, but some detrimental gender stereotypes influencing the division of roles and responsibilities persist and hamper equal participation of women in the labour force in Kuwait.

3. Maternity leave

77. At 70 days, paid maternity leave in Kuwait is among the longest in the region, but lags behind in terms of international standards (98 days).[53] The experts are encouraged by some positive initiatives undertaken by private companies in the country to increase the length of paid maternity leave. Taking into account the experiences of other countries that have introduced paternity leave, the experts consider that such a step would have a beneficial impact on multiple grounds, including in breaking stereotyped roles.

4. Domestic workers[54]

78. Nearly 90 per cent of Kuwaiti households employ one or more domestic workers.[55] According to estimates, there are about 660,000 domestic workers in the country,[56] an overwhelming majority of whom are migrant women.

79. In addition to the adoption of the ground-breaking law on domestic workers (see para. 17 above), and the Government's efforts in disseminating the law in five languages at the airport and on social media, the experts commend the establishment in 2014 of a pioneering shelter for domestic workers, with a capacity for 500 women. During the visit, the experts heard appalling accounts of abuses, including non-payment of wages for years, and violence against these workers by employers. The experts regret the low level of reporting (likely owing to fear of reprisals) and that perpetrators of violence are not systematically prosecuted and sentenced, despite existing legal safeguards. The appropriate application of sanctions would have a deterrent effect and would prevent the reoccurrence of such abuses. The experts also share the concerns expressed by the Special Rapporteur on trafficking in persons, especially women and children regarding the *kafala* system,[57] as it creates a situation of vulnerability by binding every worker to a particular employer as a sponsor, which allows for abusive and exploitative work relationships.

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[51] Statistics provided by the Government during the visit.
[52] Ibid.
[53] ILO Maternity Protection Convention, 2000 (No. 183).
[54] See A/HRC/35/37/Add.1.
[55] Nasra M. Shah, "Recent labour immigration policies in the oil-rich Gulf: how effective are they likely to be?" (2008).
[56] Human Rights Watch, *Walls at Every Turn*.
[57] A/HRC/35/37/Add.1.

D. Access and right to health

1. General access to health care

80. According to the World Health Organization, life expectancy for women and men increased by four years over the period 2000-2012, reaching 78 years.[60] The experts welcome the efforts deployed by the Ministry of Health to ensure access to quality health care to Kuwaiti women. According to information received, there is good geographic coverage for health care and the majority of doctors providing primary care in polyclinics are women.

81. While the State provides its citizens with free health care, other documented residents must pay a symbolic fee of KD1 (about $3) to benefit from a consultation in a public health centre. Subsequent care and medicines are free of charge, including lab analysis. Preventive care for women, such as mammograms and pap smears, is free for Kuwaiti women, while other residents must pay for these services.

2. Sexual and reproductive health

82. The experts note positively the high rate of antenatal care, exemplified by relatively low, yet contrasting, maternal mortality rates: 0 among Kuwaiti women and 26.3 per 100,000 births among migrant women.[61] The experts were also pleased to learn that services in public polyclinics were provided in the same manner to all women, independent of their marital status. However, according to information received, surgeries related to a woman's reproductive system need the consent of the husband, although there is no legal basis for this.

83. Fertility rates in Kuwait vary between migrant women (0.9) and Kuwaiti women (3.5).[62] The experts note positively that the birth rate among adolescents has decreased, from 26 births per 1,000 girls in 1990 to 9 in 2015.[63] Prescriptions for contraception are provided without the consent of the man, but contraceptive prevalence is still very low (52 per cent).[64] The experts noted that contraception was not reimbursed. They were informed that public health centres had stopped providing free contraception, including emergency contraception, even in cases of rape, although emergency contraception could be provided in the forensic services of hospitals and purchased in pharmacies with a prescription. This is of particular concern in the context of migrant women, whose incomes are extremely low and for whom such a cost could be significant. Also, a number of migrant women have been sentenced to prison sentences due to "illegal pregnancies" (see para. 89 below), which is clearly discriminatory.

84. The Convention on the Elimination of All Forms of Discrimination against Women enshrines the right of women to control their fertility and, as previously highlighted by the experts, quality in reproductive health requires access, without discrimination, to affordable, quality contraception.[65] Comprehensive sex education and the availability of effective contraception are essential to lower the incidence of unintended pregnancy, and hence the number of abortions. Indeed, it has been demonstrated that countries where information and modern methods of contraception are easily available and where abortion

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[60] See http://www.who.int/gho/countries/kwt.pdf?ua=1.
[61] National Centre for Health Information, Annual Health Report.
[62] Ibid.
[63] See http://data.worldbank.org/indicator/SP.ADO.TFRT?end=2015&start=1990.
[64] World Economic Forum, *The Global Gender Gap Report 2015*.
[65] A/HRC/32/44.

is legal have the lowest rates of abortion.[66] The experts noted that the issue of sexual and reproductive health and rights, including abortion, was absent from the public debate (see also para. 37 above).

85. The experts also learned that migrant workers are required to undergo a blood test verifying whether they have any infectious or transmissible disease (malaria, hepatitis or HIV). If a woman migrant worker is found to be HIV-positive, she is deported back to her country of origin. The experts consider this procedure contrary to international human rights standards and that it should be revised. Appropriate treatment should be provided to all women living with HIV/AIDS, without discrimination.[67]

IV. Gender-based violence and women victims of multiple forms of discrimination

A. Gender-based violence

86. The experts observed a general silence on the issue of violence against women in the family and gender-based violence in general. Further to questions raised during meetings with the authorities, they were informed that health centres and other counselling services regularly received cases of domestic violence, which were rarely reported to the police. The lack of statistics makes it difficult to appraise the real extent of the phenomenon.

87. In the absolute absence of shelters, and without a comprehensive law on gender-based violence with specific provisions on domestic violence, it is difficult to facilitate the reporting of cases and avoid the recourse to amicable settlement, which currently predominates. Preservation of family unity often prevails, to the detriment of respect for women's rights. The comprehensive legislation on child protection (Law No. 21 of 2015), which includes provisions for preventive and referral measures and mechanisms and for proper multidisciplinary assistance and care (medicolegal and psychosocial), demonstrates the significant change that a law can make.

B. Women victims of multiple forms of discrimination

1. Migrant women and women in prison

88. During the visit to the women's prison, the expert group was informed that the majority of women detainees were migrant women. The experts did not receive any official data on the crimes and length of the sentences. However, further to the interviews of various detainees, the experts learned that women were serving long sentences (up to 15 years) for minor offences such as robbery, drug abuse and "illegal pregnancy" (see para. 36 above). Furthermore, many women have their children (sometimes up to the age of 5 years) with them in the prison. While the experts recognize that children should not be separated from their mothers, they reiterate the call of the Special Rapporteur on violence against women, its causes and consequences to consider

[66] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20600&LangID=E.

[67] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20055&LangID=E.

systematic alternatives to detention for women, in particular for those who have dependent children.[68]

2. Stateless women

89. There are over 90,000 stateless people in Kuwait,[69] designated by authorities as "illegal residents".[70] The issue of stateless people, or bidoons, represents one of the central sources of concern for the Government, constituting a major political and socioeconomic challenge. Despite efforts deployed to regularize the status of many bidoons, issue them identity documents and grant them access to education and health care,[71] several stakeholders affirm that there is a lack of political will to find a sustainable solution.[72]

90. The experts are concerned that, as part of a minority community, bidoon women suffer from multiple and systemic discrimination throughout their life. As exemplified by reports received, some of those women continue to be excluded from society, facing stigmatization and having, inter alia, access to poor-quality education and health services and constrained job opportunities. They are discriminated against as part of a minority community in a particularly vulnerable situation but also as women within their own communities and families, and are stigmatized when they stand up for their rights. The experts reiterate the concerns expressed in this regard by several treaty bodies, United Nations agencies and civil society organizations and in the framework of the universal periodic review, and emphasize the necessity for all relevant stakeholders to recognize, understand and address the specific situation of bidoon women.

3. Transgender women

91. The experts received reports of discrimination against women on the basis of their gender identity and expression. In a joint allegation letter the experts expressed concern about the detention of a Kuwaiti woman arrested outside of her place of residence and charged with "imitation of the opposite sex" (see para. 35 above).[73] According to the information received, transgender people in Kuwait are an isolated, discriminated and vulnerable group who face harassment and threats.

4. Women in prostitution/sex workers

92. The experts are concerned about the situation of women in prostitution, which is criminalized in Kuwait.[74] In her report on her mission to Kuwait, the Special Rapporteur on trafficking in persons, especially women and children recognized the existence of sexual exploitation of women, mainly non-nationals.[75] The experts recall that the criminalization of women in prostitution places them in a situation of injustice, vulnerability and stigma and is contrary to international human rights standards. The

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[68] A/68/340. See also the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders.

[69] Office of the United Nations High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015* (2016).

[70] See also A/HRC/35/37/Add.1.

[71] A/HRC/WG.6/21/KWT/1.

[72] See also http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=KWT&Lang=EN.

[73] A/HRC/26/21, p. 54, case No. KWT 1/2014.

[74] Penal Code, arts. 200-204.

[75] A/HRC/35/37/Add.1.

Committee on the Elimination of Discrimination against Women has systematically reiterated that women should not be criminalized for being in a situation of prostitution.[76]

V. Conclusions and recommendations

A. Conclusions

93. **Over the past decades, Kuwait has made significant progress in introducing laws promoting the rights of women. Nonetheless, discriminatory legislation remains, particularly in personal status and nationality laws and in the Penal Code, along with a substantial gap in legislation combating gender-based violence. Repealing these discriminatory legal provisions is crucial to the achievement of the State's own goals of broad reforms.**

94. **The Constitutional Court, which has played an important role in repealing discriminatory legal provisions through its rulings that enforce international standards of equality, has proven to be one of the guardians of progress. Kuwait could go beyond piecemeal changes of its discriminatory legal provisions and take concrete and immediate action on a comprehensive review of the laws, in order to sustain and further progress in terms of full equality between men and women, as guaranteed by the Constitution and in accordance with international human rights standards.**

95. **Alongside the State's efforts towards sustained progress, detrimental stereotypes about the role of women and men continue to predominate and to hamper women's genuine empowerment. Kuwaiti society is composed of progressive and conservative forces, and high-performing professional women live and work in parallel spaces with those who espouse an opposite lifestyle, disinclined to evolution. The legal obligation of States to eliminate all forms of discrimination against women includes transforming roles of men and women that are based on conservative, cultural or religious ideas of the superiority or higher capacity of men or on stereotypical notions of what men and women can or cannot do. Special initiatives are necessary to encourage public dialogue, including in cultural and religious spheres, in order to change discriminatory attitudes and behaviours.**

96. **Kuwait comprises multiple coexisting realities, with a very different and unequal reality for migrants, who constitute more than two thirds of the total population. While generous State services exist for all citizens and residents, differential treatment in practice is common. Particular groups of women, including migrant and bidoon women, face multiple and/or systemic discrimination and require special attention in efforts to change laws and practices.**

97. **The experts hope that the State's leadership will be able to take the next major steps necessary to maintain and advance the achievements in the realization of human rights for women. Open and public debate on issues deemed controversial is crucial to the country's forward movement and requires the guarantee of freedom of speech and expression. The State's reform agendas will benefit from the strengthening of its civil society, particularly young women, who constitute a large section of the population.**

[76] See also A/HRC/32/44.

B. Recommendations

98. **In a spirit of cooperation, the experts formulate the following recommendations with a view to strengthening measures designed to guarantee gender equality, the empowerment of women and the promotion and protection of women's human rights.**

Legal framework

99. **The experts recommend that the State:**

(a) **Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and all human rights instruments to which it is not yet a party;**

(b) **Lift the reservations made concerning articles 9 (2) and 16 (1)(f) of the Convention on the Elimination of All Forms of Discrimination against Women;**

(c) **Repeal all discriminatory provisions in the Personal Status Law, the Nationality Act and the Penal Code, as detailed in the present report, ensuring equality before the law in compliance with the State's international obligations;**

(d) **Enact comprehensive legislation, which could follow the principles of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), to prevent, combat and deal with all forms of gender-based violence, including domestic violence, ensuring that women benefit from due protection and have access to medical, legal and psychosocial services;**

(e) **Establish an effective and independent complaint mechanism for women victims of violence and ensure that reports are duly registered by the police and promptly, impartially, effectively and thoroughly investigated and that perpetrators, when necessary, are prosecuted and punished;**

(f) **Decriminalize the termination of a pregnancy in accordance with international standards;**

(g) **Ensure that labour law is in compliance with international standards, including maternity leave and equal pay for work of equal value, and in this regard repeal any discriminatory provision in the curreat legislation;**

(h) **Ratify the ILO Domestic Workers Convention, 2011 (No. 189) and ensure that the national law is in compliance with the Convention and that sufficiently funded monitoring mechanisms are in place to ensure efficient implementation of the law;**

(i) **Abolish the *kafala* system and replace it with a regulation ensuring that migrant workers enjoy substantial freedom in the labour market;**

(j) **Reinstate the moratorium on the death penalty, with a view to abolishing the capital punishment.**

Access to justice

100. **The experts recommend that the State:**

(a) **Reduce the costs for lodging a complaint before the Constitutional Court;**

(b) **Provide quality and free legal assistance to all, in particular to vulnerable migrant and bidoon women;**

(c) **Duly train police and justice operators.**

Institutional framework

101. **The experts recommend that the State:**

(a) **Ensure that the women's human rights machinery meets the standards set out by the Committee on the Elimination of Discrimination against Women;**

(b) **Establish promptly the national human rights institution and, within it, a special mechanism to ensure that women's human rights are given due consideration and are tackled as a cross-cutting issue;**

(c) **Make use of Kuwaiti Women's Day (16 May) to raise awareness about what constitutes discrimination and the fulfilment of all human rights for all women in the country.**

Policies

102. **With respect to family and cultural life, the experts recommend that the State:**

(a) **Take measures to initiate a constructive dialogue on gender equality in the family, including by inviting experts on women's human rights specialized in progressive interpretations of religious texts, actively engaging, inter alia, the Ministry of Awqaf and Islamic Affairs, the Supreme Consultative Authority on Sharia Law and national NGOs;**

(b) **Implement sustainable strategies with a view to eliminating prejudices and customary practices that are based on the idea of the inferiority of women or on stereotyped roles for men and women.**

103. **With respect to political and public life, the experts recommend that the State:**

(a) **Apply temporary special measures to ensure parity in public and political representation, in the executive and legislative branches, and in the judiciary;**

(b) **Provide special support, including training and assistance for campaigning, to help raise the profiles and visibility of women candidates and facilitate their outreach capacity;**

(c) **Implement a comprehensive and effective strategy and plan of action for gender equality and the empowerment of women that includes a full range of temporary special measures, such as quotas;**

(d) **Enable the establishment of political parties in the country in place of the dominant bloc/coalition system, and ensure that women are adequately represented in parties by adopting quota or parity laws or enforcing non-compliance sanctions;**

(e) **Maintain the practice of allowing women to take the prosecutor's exam and the competitive exam for the diplomatic service, ensuring that all women with the status of "political researchers" working in the Ministry of Foreign Affairs before 2014 will be given the same fair chance of becoming diplomats;**

(f) **Ensure that human rights education is provided from primary school and that it is duly founded on international human rights standards, including the principles of gender equality and women's rights;**

(g) **Take all measures necessary to empower national women's rights organizations and encourage their cooperation with international networks;**

(h) **Ensure that freedom of expression and freedom of assembly is systematically realized for all.**

104. **With regard to access to health, the experts recommend that the State:**

(a) **Ensure that surgeries related to a woman's reproductive system do not require the consent of her husband;**

(b) **Provide free contraception to women with limited economic means, including emergency contraception, in particular in cases of rape;**

(c) **Ensure access to abortion services for all.**

105. **With regard to gender-based violence, the experts recommend that the State:**

(a) **Carry out research and collect data on the extent of all forms of gender-based violence, including domestic violence, as well as collect statistical data on complaints, prosecutions and sentences;**

(b) **Raise awareness about all forms of gender-based violence, establish accessible complaint mechanisms for reporting domestic violence, including hotlines, create sufficient shelters and ensure that complaints are duly investigated, perpetrators sanctioned and victims given full reparation.**

106. **With regard to women victims of multiple forms of discrimination, the experts recommend that the State:**

(a) **Find a sustainable solution, in accordance with international standards, to the situation of bidoon women to ensure that they are not victims of systemic discrimination;**

(b) **Ensure alternatives to the incarceration of women, in particular for those with dependent children, in accordance with international standards;**

(c) **Reduce the gap between the rights given to Kuwaiti women and those given to migrant women.**